

AMENDED IN SENATE APRIL 11, 2007

**SENATE BILL**

**No. 593**

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**Introduced by Senator Margett**

February 22, 2007

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An act to amend Section ~~10140~~ *10261* of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 593, as amended, Margett. ~~Advertisement for bids. Contract progress payments.~~

The State Contract Act governs contracting between state agencies and private contractors, and sets forth requirements for the procurement of supplies, materials, equipment, and services by state agencies. Existing law sets out the various responsibilities of the Department of General Services and other state agencies in overseeing and implementing state contracting procedures and policies.

~~This bill would make a technical, nonsubstantive change to this provision.~~

*Existing law requires payments on contracts with progress payments to be made as the awarding department prescribes, as specified, with the department withholding not less than 5% of the contract until final completion and acceptance of the project, and, at any time after 95% of the work has been completed, authorizes the department to reduce the funds withheld to an amount not less than 125% of the estimated value of the work yet to be done, as specified.*

*This bill would remove the requirement that the awarding department withhold not less than 5% of the contract price for a contract with progress payments until final completion and acceptance of the project, and would remove the provision that, at any time after 95% of the work*

has been completed, authorizes the department to reduce the funds withheld to an amount not less than 125% of the estimated value of the work yet to be done.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 10261 of the Public Contract Code is  
2     amended to read:

3     10261. Payments upon contracts shall be made as the  
4     department prescribes upon estimates made and approved by the  
5     department, ~~but progress payments shall not be made in excess of~~  
6     95 percent of the percentage of actual work completed plus a like  
7     percentage of the value of material delivered on the ground or  
8     stored subject to or under the control of the state, and unused,  
9     except as otherwise provided in this section. The department shall  
10    withhold not less than 5 percent of the contract price until final  
11    completion and acceptance of the project. However, at any time  
12    after 95 percent of the work has been completed, the department  
13    may reduce the funds withheld to an amount not less than 125  
14    percent of the estimated value of the work yet to be completed, as  
15    determined by the department, if the reduction has been approved,  
16    in writing, by the surety on the performance bond and by the surety  
17    on the payment bond. The Controller shall draw his or her warrants  
18    upon estimates so made and approved by the department and the  
19    Treasurer shall pay them. The funds may be released by electronic  
20    transfer if that procedure is requested by the contractor, in writing,  
21    and if the public entity has, in place at the time of the request, the  
22    mechanism for the transfer.

23    SECTION 1. ~~Section 10140 of the Public Contract Code is~~  
24    amended to read:

25    10140. Public notice of a project shall be given by publication  
26    once a week for at least two consecutive weeks or once a week for  
27    more than two consecutive weeks, if the longer period of  
28    advertising is deemed necessary by the department, as follows:

29    (a) ~~In a newspaper of general circulation published in the county~~  
30    ~~in which the project is located, or if located in more than one~~  
31    ~~county, in such a newspaper in a county in which a major portion~~  
32    ~~of the work is to be done.~~

1     ~~(b) In a trade paper of general circulation published in San~~  
2     ~~Francisco for projects located in County Group No. 1, as defined~~  
3     ~~in Section 187 of the Streets and Highways Code, or in Los~~  
4     ~~Angeles for projects located in County Group No. 2, as defined in~~  
5     ~~said Section 187, devoted primarily to the dissemination of contract~~  
6     ~~and building news among contracting and building materials supply~~  
7     ~~firms.~~

8     ~~The department may publish the notice to bidders for a project~~  
9     ~~in additional trade papers or newspapers of general circulation that~~  
10    ~~it deems advisable.~~